



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss

**COMMISSION ADJUDICATORY
DOCKET NO. 06-0010**

IN THE MATTER OF JOSEPH FLAHERTY

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Joseph Flaherty pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, § 4(j).

On March 16, 2006, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Flaherty. The Commission concluded its inquiry and, on May 11, 2006, found reasonable cause to believe that Flaherty violated G.L. c. 268A.

The Commission and Flaherty now agree to the following findings of fact and conclusions of law:

Findings of Fact

1. Flaherty was a Mendon Parks Commission (MPC) member from May 2000 to October 2004. Flaherty was re-elected to the MPC in May 2005 and is currently serving his term.

2. The MPC oversees the Recreation Department's summer youth camp, including appointing the camp director. The MPC members delegate to the camp director the responsibility of appointing camp counselors.

3. At the time relevant to this matter, campers had to be 12 years old or younger. The cost of one week at camp was \$150. Junior counselors had to be age 13-15 and assisted the senior counselors. Junior counselors were unpaid, but attended camp free of charge and received free lunch every day and valuable experience that could lead to a paid senior counselor position in the future. Junior counselors were not required to commit to working the whole summer or to working full 1-week sessions.

4. Flaherty has a son who was 15 years old in 2005. Flaherty's son was a junior counselor in summers 2003 and 2004. To get those positions, Flaherty's son applied and was interviewed and then hired by the camp director. In 2003 and 2004, there were 20 or more junior counselors.

5. Prior to 2005, anyone who applied to be a junior counselor got the job. The MPC recognized that this situation was problematic and changed the junior counselor selection process for the 2005 season. The MPC decided to limit the number of junior counselors to 10 for summer 2005.¹ During spring 2005, the camp director position was vacant so the MPC delegated the authority to hire junior counselors to the MPC clerk/administrative secretary (MPC Clerk).

6. In spring 2005, about 25 candidates, including Flaherty's son, applied to be junior counselors for summer camp 2005. Candidates were interviewed by either the three senior counselors or the MPC Clerk. After all of the interviews were completed, the MPC Clerk met with the three interviewer senior counselors and selected 10 junior counselors for summer camp 2005. Flaherty's son was not selected.

7. Flaherty rejoined the MPC in early May 2005. Shortly thereafter, Flaherty asked the MPC Clerk about the junior counselor positions. The MPC Clerk told Flaherty that Flaherty's son had not been selected and that the MPC had limited the number of junior counselors to 10. The MPC Clerk stated that the MPC might need to hire more junior counselors if the number of campers increased, but they did not plan on that happening and she could not guarantee it. The MPC Clerk told Flaherty she would call him if anything changed.

8. At the June 2005 MPC meeting, Flaherty expressed his concerns about the number of junior counselors and the hiring process. At the next MPC meeting on July 5, 2005, which Flaherty did not attend, the MPC voted to keep the number of junior counselors at 10.

9. On Monday, July 11, 2005, Flaherty brought his son to the Recreation Department's camp. Flaherty told the newly appointed camp director that his son was there to be a junior counselor for that week and also for two additional weeks in the summer. Flaherty's son attended the camp as a junior counselor for at least 10 days of these three weeks.

10. Flaherty's son applied and was accepted to be a senior counselor at the 2006 camp.

Law

11. Section 23(b)(2) of G.L. c. 268A prohibits a public employee from knowingly or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

12. As a MPC member, Flaherty was a municipal employee as that term is defined in G.L. c. 268A, § 1(g), and therefore subject to the conflict-of-interest law.

13. Flaherty was able to have his son attend camp without paying by telling his subordinate, the camp director, that his son would be attending as a junior counselor. In doing so, Flaherty knew or had reason to know that he was using his MPC position when he told the camp director that his son was to attend the camp for free as a junior counselor.

14. Where Flaherty's son was too old to attend camp as a camper and was not selected as a junior counselor, his attendance at the camp was an unwarranted privilege.

15. The unwarranted privilege secured by Flaherty was of substantial value.²

16. Other parents would not have been able to receive similar benefits for their children. Thus, the privilege was not otherwise properly available to similarly situated individuals.

17. Therefore, by telling his subordinate that his son was attending camp as a junior counselor when his son had not been so selected, Flaherty knowingly or with reason to know used his MPC member position to secure for himself and/or his son unwarranted privileges of substantial value that were not properly available to similarly situated individuals, violating § 23(b)(2).

Resolution

In view of the foregoing violation of G.L. c. 268A by Flaherty, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Flaherty:

- (1) that Flaherty pay to the Commission the sum of \$1,000.00 as a civil penalty for violating G.L. c. 268A, § 23(b)(2); and
- (2) that he waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: June 15, 2006

¹ Flaherty was not a MPC member when the decision was made to limit the number of junior counselors.

² The exact benefit to Flaherty and/or his son is unclear. The financial benefit to Flaherty and his son cannot be precisely quantified, but clearly exceeded the minimum for substantial value of \$50 or more. Thus, Flaherty secured for his son a safe and pleasant place to stay during the day for at least 10 days and the opportunity to gain work experience as a junior counselor under the supervision of the camp director and the junior counselors. In addition, of course, Flaherty's son received free lunches.